

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

United States of America,)	
)	
Plaintiff,)	Case No. 3:23-cr-45-3
)	
vs.)	ORDER
)	
Shaquiel Anthony Mendez,)	
)	
Defendant.)	

Shaquiel Anthony Mendez is serving a sentence ordered by a North Dakota state court and appeared in this court, following his indictment, pursuant to a writ of habeas corpus ad prosequendum. He is currently being held in United States Marshals Service custody and moves to return to state custody so he may continue to serve his state sentence during the pendency of this case. He also requests a hearing on his motion. (Doc. 66).

The United States opposes the motion for two reasons. First, Mendez has not filed a waiver of his rights under the anti-shuttling provision of the Interstate Agreement on Detainers Act (IADA). Second, trial is scheduled to begin October 3, 2023, and the United States asserts it would be impractical to release Mendez to state custody and return him back to federal custody prior to trial. (Doc. 69).

As the United States correctly notes, returning a defendant to state custody absent a waiver of the anti-shuttling provision violates IADA. See United States v. Cartwright, 23 F.4th 1075, 1077-78 (8th Cir. 2022). Article IV(e) of the IADA is commonly referred to as the “anti-shuttling” provision. It requires “dismissal of an indictment against a prisoner whose custody is obtained by a receiving state . . . if he is returned to his original place of imprisonment without first being tried on the

indictment underlying the detainer and request by which custody of the prisoner was secured.” United States v. Bruton, 647 F.2d 818, 821 n.1 (8th Cir. 1981). Thus, absent a waiver of the anti-shuttling provision, this court will not grant Mendez’s request. And, as the government also asserts, it would be impractical to release Mendez to state custody since his trial is scheduled to begin in about one month.

Mendez’s motion, (Doc. 66), is **DENIED** without prejudice to filing a similar motion if his trial date should be continued and he waives the anti-shuttling provision of the IADA.

IT IS SO ORDERED.

Dated this 31st day of August, 2023.

/s/ Alice R. Senechal

Alice R. Senechal

United States Magistrate Judge